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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,453

08/13/2008

Eric Stievenard

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MILLER, MATTHIAS & HULL  
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CHICAGO, IL 60606

EXAMINER

MCDUFFIE, MICHAEL D

ART UNIT

PAPER NUMBER

3632

NOTIFICATION DATE

DELIVERY MODE

09/30/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lrudaitis@MILLERMATTHIASHULL.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,453	<b>Applicant(s)</b> STIEVENARD ET AL.	
	<b>Examiner</b> MICHAEL MCDUFFIE	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/20/2006 &amp; 02/11/2009</u> .                             | 6) <input type="checkbox"/> Other: _____                          |

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The following correspondence is a non-final Office Action for application # 10596453, entitled: DEVICE FOR DISPLAYING A RANGE OF OBJECTS, filed on 08/13/2008.

Claims 1-13 are pending.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 9, lines 2-3 state: "...the board has reliefs, the device comprising at least one sample holder having reliefs that fit the reliefs on the board by engagement." It is believed that the first and third occurrences of the term "reliefs," should be "orifices." For Examination purposes, these reliefs will be understood to be orifices.

Claim 13 recites the limitation "said top extremity" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim. For Examination purposes, "said top extremity," will be understood to mean, "a top extremity."

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Insler et al. (U.S. Patent No.: 2346582) in view of Yang (U.S. Patent No.: 7540466).

Regarding claim 1, Insler discloses a device for displaying a range of objects, comprising: a display stand (as seen in Fig. 5) comprising a board **33** provided with a front face **10** designed to be provided with a range of objects for display and, opposite the front face, a rear face **31** having a bottom extremity (as shown in Fig. 5), and at least one support leg **37** hinged by connection means **34** to the rear face **31** of the display stand.

Insler is discussed above, and fails to teach a locking means for the support leg. Yang teaches a locking means (as shown in Fig. 4B) for locking the support leg **4** relative to the display stand in a first inclined position, the device being designed to stand in a stable manner, in the first inclined position, simply by the support leg and the bottom extremity of the display stand resting simultaneously on a support surface (as seen Fig. 6B), characterized in that the locking means are designed to lock the support leg **4** relative to the display stand in at least one second inclined position different from

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the first inclined position (see, for example Figs. 6C-D), the device being designed to stand in a stable manner, in the second inclined position, simply by the support leg **4** and the bottom extremity of the display stand resting simultaneously on a support surface, and in that the support leg **4** is arranged so as to be located entirely underneath the display stand between the first and second inclined positions. The Examiner notes that the support leg **4** is capable of being incrementally adjusted to various angles, enabling a wide range of tilting of the device.

It would have been obvious to one having ordinary skill in the art at the time of the invention, to utilize the stand and locking means of Yang with the device of Insler, in order to allow the user to adjust and create various viewing angles freely, so that the viewing angle adjustment can be adapted to different conditions and requirements universally, as taught to be desirable by Yang (see col. 1, lines 53-56).

With regards to claim 2, Insler and Yang are discussed above, and further teach the device, in which, in the first inclined position, the support leg and said rear face of the display stand are set at an angle  $\alpha$  variable from  $0^\circ$  to  $180^\circ$ .

Regarding claim 3, Insler and Yang go on to teach the device, in which the angle  $\alpha$  varies from  $30^\circ$  to  $120^\circ$ .

With regards to claim 4, Insler and Yang further teach the device, in which the support leg **4** is capable of retracting into the rear face of the display stand.

Regarding claim 5, Insler and Yang disclose the device, in which the support leg **4** comprises an essentially planar panel whose width is not greater than the width of the display stand (as shown in Fig. 1).

With regards to claim 6, Insler and Yang teach the device, in which the locking means comprise a part **3** of the rear face of the display stand and a part of the support leg acting on each other by friction (as seen in Fig. 4B below).

Regarding claim 7, Insler and Yang go on to teach the device, in which the support leg **4** and the display stand are hinged by a pivot (as shown in Fig. 4B below) connected to the support leg and by a part of the rear face of the display stand with respect to which the pivot is designed to be able to rotate, the pivot being built into the thickness of the board.

With regards to claim 8, Insler and Yang disclose the device, in which the pivot comprises a plurality of housings **4a,8a**, and in which the locking means comprise: at least one pin **12** connected in rotation to the support leg **4** and designed to slide with respect to the pivot between an immobilized position and a mobilized position, and at least one tooth (as shown in Fig. 2D below) connected to the pin **12** and designed to engage selectively with a housing **4a,8a** in the immobilized position and to be removed from the housing **4a,8a** in the mobilized position.

Regarding claim 9, Insler and Yang teach the device, in which the board **33** has orifices **27**, the device comprising at least one sample holder having reliefs **26** that fit the orifices of the board by engagement.

With regards to claim 10, Insler and Yang go on to teach the device, comprising at least one sample holder attached removably to the board by magnetic means **13,14** (see discussion in col. 1, lines 55-60, through col. 2, lines 1-2).

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Regarding claim 11, Insler and Yang further teach the device, in which the board **33** has a rectangular front face **10**.

With regards to claims 11-13, Insler and Yang fail to explicitly disclose the size ratios and the specific shapes of the sample holder. However, it would have been an obvious matter of design choice to alter the dimensions of the components, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a different shape, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent.

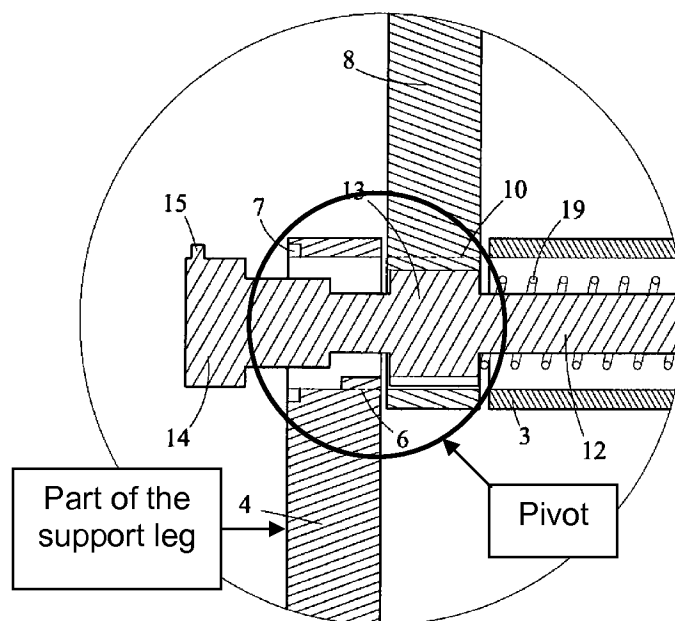


FIG. 4B

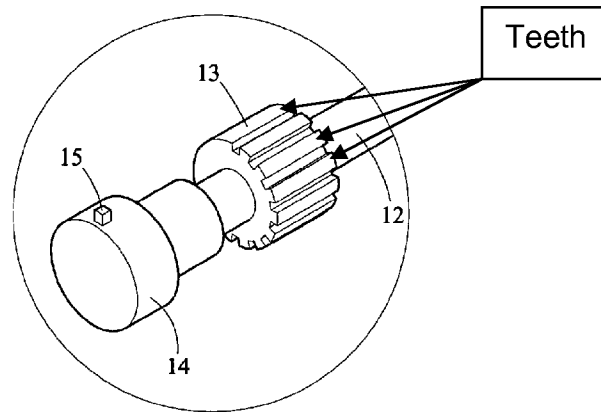


FIG. 2D

### ***Conclusion***

In addition to the references above, the Examiner submits the Notice of References Cited (PTO-892), which discloses devices capable of supporting display objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL MCDUFFIE whose telephone number is (571)272-3832. The examiner can normally be reached on Mon.-Fri., 7AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael McDuffie/  
Examiner, Art Unit 3632  
17-Sep-09

/J. ALLEN SHRIVER II/  
Supervisory Patent Examiner, Art Unit 3632